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C O N F I D E N T I A L STATE 029154

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USUN FOR MSIMONOFF AND MMCLEOD

E.O. 12958: DECL: 03/24/2019
TAGS: [EAID](#) [KJUS](#) [KTIA](#) [PGOV](#) [PREL](#) [UN](#) [CB](#)
SUBJECT: GUIDANCE TO USUN ON KHMER ROUGE TRIBUNAL

REF: A. USUN-EAP-S/WCI EMAIL (3/17/09)
[1](#)B. PHNOM PENH 168

Classified By: IO Acting A/S James Warlick, Reasons 1.4 (B) and (D).

[1](#)1. (C) Summary and Action Request: The UN's Office of Legal Affairs (OLA) and the Cambodian government have significantly different interpretations of the February 23 Joint Statement outlining the structure of an anti-corruption mechanism in the Khmer Rouge Tribunal (KRT). UN/OLA has solicited U.S. views on what the UN's bottom line should be in its negotiations with the Royal Government of Cambodia (RGC). The Department strongly supports the KRT and recognizes that efforts to eliminate corruption are critical to the court's success. Department does not believe, however, that this issue can be resolved through the exchange of letters agreed to in the Joint Statement. USUN should urge UN/OLA to reengage the RGC at a senior level in Phnom Penh, using the February 23 statement as a baseline for further negotiation. Department does not seek to predetermine the outcome of those talks, but USUN may note that we are sympathetic to UN concerns that local KRT employees not feel constrained or intimidated in filing complaints. End Summary and Action Request.

[1](#)2. (C) Department appreciates USUN's ongoing engagement with UN/OLA and the donor steering committee for the Extraordinary Chambers in the Courts of Cambodia aka Khmer Rouge Tribunal (KRT). Department notes UN/OLA's recent request for input from donors on the way forward in the development of a joint anti-corruption mechanism for the KRT (Ref A). Department also recognizes the challenges in ensuring adequate funding for the court and a March 23 deadline for a report by a joint UN-Cambodian team on issues related to corruption on the administrative side of the court (Ref B).

[1](#)3. (C) Department is concerned that the ongoing dispute between the UN and the RGC over the implementation of the anti-corruption mechanism risks undermining the future of the court. It does not appear that the parties will be able to resolve their differences, at this point, through an exchange of letters. Department believes that further meetings between senior representatives of the UN and the RGC are both necessary and appropriate.

[1](#)4. (SBU) OBJECTIVES: Department requests USUN make the following points to relevant UN/OLA and donor country representatives at the earliest opportunity. Embassy Phnom Penh is authorized to draw from the same points in conversation with UN representatives and representatives of other donor states:

--Reiterate U.S. support for the goal of eliminating corruption at the KRT. Welcome the efforts of UN/OLA chief Peter Taksoe-Jensen to work with the Cambodian side to create a joint mechanism to address corruption issues at the KRT.

--Express our support for the Joint Statement of February 23, 2009, in which the RGC and the UN agreed on "the essential

elements of a structure devoted to strengthening the ECCC's entire administration."

--Encourage the UN to work from the Joint Statement as a baseline position, even while recognizing that the document is less than ideal.

--Urge the two sides to continue efforts to refine the agreement and flesh out details on implementation, but without seeking to amend the provisions of the February 23 Joint Statement.

--Note that Department is sympathetic to UN concerns regarding the importance of ensuring that local KRT employees not feel unduly constrained or intimidated in filing complaints.

--Urge that every effort should be made by both sides to continue negotiations, including by a high-level UN delegation present in Phnom Penh.

--Support the announced resumption of limited donor funding to the RGC to pay the court's monthly payroll for Cambodian employees and thus avert any interruption to the court's work.

--Suggest that the exchange of letters could be used to summarize work to date and anticipate resumption of face-to-face talks to refine the details of the joint mechanism.

--(if asked) Reiterate our intention to deliver \$1.782 million to UNAKRT to support its activities with the KRT pending finalization of the grant language and explain that the evaluation of any future funding for the KRT will take into account continued progress on the issue of corruption.

¶4. (C) BACKGROUND: Three years after its creation, the KRT is moving ahead on its first trial, which is scheduled to open on March 30. However, allegations of corruption against non-judicial Cambodian staff at the KRT have been damaging to the court's credibility. In December 2008, Cambodian Chief of Administration Sean Vissoth, who has been the subject of a number of allegations, went on an extended medical leave from which he has yet to return.

¶5. (C) UN/OLA chief Peter Taksoe-Jensen traveled to Phnom Penh in December 2008 and February 2009 to negotiate the creation of an anti-corruption mechanism for the KRT. On February 23, Taksoe-Jensen and Cambodian Deputy Prime Minister Sok An agreed on the text of a Joint Statement that outlined the structure of the proposed anti-corruption mechanism. However, subsequent exchanges of letters revealed that the two sides had substantially different interpretations of the language contained in the Joint Statement. On March 17, OLA solicited the views of donor countries on how to resolve these differences. In particular, OLA sought views on what position UN/OLA should adopt as its bottom line in its negotiations with the RGC.
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